

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:20-cv-00082-MR-WCM**

GARDNER-WEBB UNIVERSITY,)	
)	
Plaintiff,)	
)	
vs.)	
)	<u>ORDER ACCEPTING</u>
PRO FORM SPORTS, LLC and)	<u>MEMORANDUM AND</u>
GARY WILSON,)	<u>RECOMMENDATION</u>
)	<u>AND ORDER TO</u>
Defendants.)	<u>SHOW CAUSE</u>
_____)	

THIS MATTER is before the Court on the Magistrate Judge's Memorandum and Recommendation [Doc. 27] regarding the withdrawal of counsel of record for the Defendants.

On May 18, 2021, the Magistrate Judge filed a Memorandum and Recommendation in this case recommending that a default be entered as to Pro Form Sports, LLC due to its failure to retain new counsel after its original counsel was permitted to withdraw. [Doc. 27]. The parties were advised that any objections to the Magistrate Judge's Memorandum and Recommendation were to be filed in writing within fourteen (14) days of service. The period within which to file objections has now expired, and no

written objections to the Memorandum and Recommendation have been filed.

After a careful review of the Magistrate Judge's Recommendation, the Court finds that the proposed conclusions of law are consistent with current case law. Accordingly, the Court hereby accepts the Magistrate Judge's recommendation that a default be entered as to Defendant Pro Form Sports, LLC.

The Court next turns to the Defendant Gary Wilson. On February 24, 2021, the Magistrate Judge held a hearing on defense counsel's motion to withdraw. At that time, Defendant Wilson advised the Court that he intended to retain new counsel. [See Doc. 24 at 2]. Since that time, the Plaintiff has filed two motions to compel against Defendant Wilson due to his failure to engage in discovery. [Docs. 28, 31]. Defendant Wilson has not responded to the Plaintiff's motions. Additionally, the Plaintiff has moved to extend the case management deadlines by sixty days, based upon Defendant Wilson's representations to Plaintiff's counsel that he intends to retain new counsel. [Doc. 33]. Notably, however, Defendant Wilson has not filed anything with the Court to indicate that he is actively seeking counsel, and he has not sought any extensions of time to respond to the Plaintiff's pending motions. Moreover, the Court's correspondence to Defendant Wilson has been

returned as undeliverable. [See Docs. 30, 34]. Thus, despite Defendant Wilson's representations to Plaintiff's counsel to the contrary [see Docs. 33-1, 33-2], it appears that Defendant Wilson may have abandoned this action. Accordingly, the Court will direct Defendant Wilson to show cause in writing within fourteen (14) days of the entry of this Order why an entry of default should not be made against him as well. The Defendant is advised that failure to respond to the Court's Order within the time required will likely result in the entry of default against him and possibly the entry of a default judgment.

In light of the fact that Plaintiff's counsel apparently has been able to communicate with Defendant Wilson through email, the Court will instruct Plaintiff's counsel to forward a copy of this Order to Defendant Wilson's last known email address.

IT IS, THEREFORE, ORDERED that the Memorandum and Recommendation [Doc. 27] is **ACCEPTED**, and the Clerk of Court is respectfully directed to make an entry of default as to the Defendant Pro Form Sports, LLC.

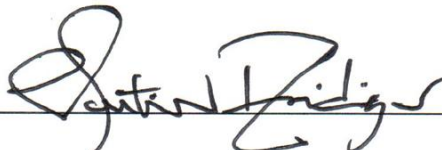
IT IS FURTHER ORDERED that, within fourteen (14) days of the entry of this Order, the Defendant Gary Wilson shall **SHOW CAUSE** why an entry of default should not be made against him. **The Defendant is advised that**

failure to respond to the Court's Order within the time required will likely result in the entry of default against him and possibly the entry of a default judgment.

Plaintiff's counsel is instructed to forward a copy of this Order to Defendant Wilson at his last known email address.

IT IS SO ORDERED.

Signed: June 15, 2021



Martin Reidinger
Chief United States District Judge

